

ORDINANCE G-2016-17

INTRODUCING: Mosby
COMMITTEE: A.S.D.

AN ORDINANCE AMENDING
CHAPTER 6.05 (ANIMAL CONTROL)
OF THE CODE OF ORDINANCES

WHEREAS, the Common Council recognizes that portions of the Animal Control Chapter in the Evansville Municipal Code need clarification and revision; and

WHEREAS, the Common Council finds it necessary to amend Chapter 6.05 of the Code.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Evansville as follows:

Section 1. Amendment of Section 6.05.020 of the Code. Section 6.05.020 of the Evansville Municipal Code is hereby amended by deleting the stricken words and inserting the words underlined in the definitions set forth hereafter as follows:

“Affidavit” means a sworn statement in writing made especially under oath or on affirmation before an authorized magistrate or officer.

“Animal assemblage” means the gathering ~~on one lot~~ of seven or more altered dogs and/or altered cats over the age of six months, except community cats, ~~on one or more adjoining lots owned or occupied by the same owner(s) or tenant(s) of a single residence on the lot(s).~~

“At large” means any animal, other than community cats, that is ~~not~~ under restraint. :

- ~~(1) Not on a leash and is off the property of its owner, its owner’s agent, or its keeper;~~
- ~~(2) On a leash that does not adequately confine the animal to the property of its owner, its owner’s agent, or its keeper; or~~
- ~~(3) On a leash that is not otherwise under the immediate control of a person physically capable of restraining the animal.~~
- ~~(4) This definition does not apply to community cats.~~

“Dwelling” means a building or place of shelter to live in; place of residence, abode; home.

“Interfering with an Animal Control Officer” means any person taking any action to interfere with, or obstruct, an investigation the duties of an Animal Control Officer, including but not limited to obstructing an Animal Control Officer from apprehending a loose animal.

“Neighboring” means next to or very near another place; adjacent.

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Anna W. Winkler
CITY CLERK

~~“Primary restraint” means any device or mechanism that provides physical restraint used or intended to restrict an animal to a limited amount of space including, but not limited to, a room, pen, run, cage, compartment, pool, or hutch.~~

“Residence” means a person’s home; the place where someone lives.

“Restraint” means under control by being adequately secured, without means of escape, (1) on a leash or lead that adequately confines the animal to the property of its owner, its owner’s agent, or its keeper, (2) on a leash or lead with a person physically capable of restraining the animal, or (3) in a pen, fenced enclosure, corral, cage, house, vehicle, or other secure enclosure. For purposes of this chapter, “restraint” shall not mean control via a wireless or invisible fence.

Section 2. Amendment of Section 6.05.030(B)(1) of the Code. Section 6.05.030(B)(1) of the Evansville Municipal Code is hereby amended by inserting the words underlined as follows:

“(1) Permits for Animal Establishments.

(a) Requirements. No person shall create or maintain an animal establishment without a permit. Permits shall only be issued upon approval by the commission, upon recommendation of the Animal Control Superintendent for compliance with this chapter. The ACO shall inspect for compliance with this chapter.

(b) Display. Permits shall be displayed in a prominent location at the establishment and expire one year from date of issue ~~as of midnight December 31st of each year.~~ Application for renewal or new permits must be made at least 30 days prior to the expiration of the current permit ~~end of the year~~ in case of renewal, or 30 days prior to the commencement of operations in case of a new permit.

(c) Transfer. Animal establishment permits are not transferable.

(d) Inspection. The Animal Control Officer, the Director of Mesker Park Zoo, or the Humane Officer shall have the authority to inspect all animals and premises at animal establishments annually and/or at any reasonable time at the direction of the commission with the consent of the owner or person in control of the premises or upon approval of a court of law by the issuance of an administrative search warrant or other court order.

(e) The applicant or permit holder shall not offer a puppy or kitten under the age of eight weeks for sale, trade, or other compensation or for free giveaway except a puppy or kitten or litters of them taken to Animal Care and Control or any 501(c)(3) humane adoption agency.

(f) If the applicant for a permit or renewal thereof shall have two or more violations of this chapter within the previous 12-month period, said permit shall not be granted.

(g) No puppy or kitten under the age of eight weeks may be offered for sale, trade or other compensation or for free giveaway except a puppy or kitten, or litter or litters taken to Animal Care and Control or any 501(c)(3) humane adoption agency.”

Section 3. Amendment of Section 6.05.040(A)(12) of the Code. Section 6.05.040(A)(12) of the Evansville Municipal Code is hereby amended by inserting the words underlined as follows:

“(12) (a) Expose any known poisonous substance, whether or not mixed with food, so that such poisonous substance shall be liable to be eaten by a pet, regardless of whether the substance is buried or not.

(b) Recklessly or knowingly mix chemicals or hazardous materials in a manner which could cause a dangerous emission of fumes and/or explosion, on the same property of an animal. One example of such a mixture is a clandestine drug lab.”

Section 4. Amendment of Section 6.05.040(A)(19) of the Code. Section 6.05.040(A)(19) of the Evansville Municipal Code is hereby amended by deleting the stricken words as follows:

“(19) No person shall permit, provide a location for, or conduct any dogfight, cockfight, or other combat between animals or between animals and humans.

(a) No person shall permit or conduct any dogfight, cockfight, or other combat between animals or between animals and humans.

(b) No person shall possess animal fighting paraphernalia and a dog, cock, fowl, or bird bearing a scar, wound or injury consistent with animal fighting.

(c) No person shall attend an animal fighting contest.

(d) No person shall sell, purchase, own, harbor, give away, barter, breed, or possess any animal for animal fighting.

(e) No person shall permit anyone to use any building, shed, room, yard, ground, premises, vehicle or property, whether enclosed or not, for the purpose of animal fighting.

(f) No person shall aid, abet, assist, act as judge or referee, bet or wager money or other valuable consideration on the outcome of, be at, attend, or in any way engage in the furtherance of an exhibition of animal fighting.

~~(g) If the actions prohibited in this subsection (A)(19) constitute a criminal violation, the criminal violation shall be pursued instead of an ordinance violation.”~~

Section 5. Amendment of Section 6.05.040(A)(23) of the Code. Section 6.05.040(A)(23) of the Evansville Municipal Code is hereby amended by deleting the stricken words and inserting the words underlined as follows:

“(23) Traps.

(a) No person shall use, place, set or cause to be set within the City, or upon lands owned by the City, any traps except cage-type live traps approved by Animal Care and Control and used for the control of nuisance animals. This shall not apply to any trap specifically designed to kill rats, mice, gophers, groundhogs, muskrats or moles so long as the owner of the real estate is aware of the location where the trap(s) are set and monitors said trap(s) at least once every 12 hours ~~24 hours~~.

(b) Traps discovered by Animal Care and Control to have been unlawfully set in the City may be seized and used as prima facie evidence that a violation has been committed.

Upon a determination that said traps are set in violation of this chapter, said trap(s) shall be forfeited to and disposed of by Animal Care and Control.

(c) Traps are not allowed to be set outdoors when the temperature outdoors is 32 degrees Fahrenheit or colder.”

Section 6. Addition of Section 6.05.040(A)(27) of the Code. Section 6.05.040(A) of the Evansville Municipal Code is amended by the addition of Subsection (27) to be added to read as follows:

“(27) No person shall permit an animal to gain access to a roof or overhang of a porch through an open window or by other means.”

Section 7. Addition of Section 6.05.040(E) of the Code. Section 6.05.040(E) of the Evansville Municipal Code is hereby amended by the addition of Subsection (E) to be added to read as follows:

“(E) Interfering with animal control officer investigation or duties.

(a) It shall be unlawful to interfere with any Animal Control Officer, or any other law enforcement officer empowered to act by law to enforce the Animal Control chapter of the Evansville Municipal Code during the course of the officer’s duties.

(b) It shall be unlawful to take, or attempt to take, any animal from an Animal Control or law enforcement vehicle which is used or intended to be used to transport the animal.”

Section 8. Amendment of Section 6.05.130 of the Code. Section 6.05.130 of the Evansville Municipal Code is hereby amended by the addition of Subsections (J) and Subsection (K) to be added to read as follows:

“(J) An animal that has been previously impounded stray or at-large and is now redeemed for the second or subsequent redemption, will be required to be spayed or neutered by a licensed veterinarian at the owner’s expense. Arrangements to perform the procedure must be made within 24 hours of reclaim and enforcement action pending spay/neuter will be issued at the time of reclaim.

(K) Any dog or cat reclaimed from Evansville Animal Care and Control must be microchipped prior to the owner taking possession of the dog or cat.”

Section 9. Amendment of Section 6.05.170 of the Code. Section 6.05.170 of the Evansville Municipal Code is hereby amended by inserting the words underlined as follows:

“6.05.170 Funding of emergency veterinarian services.

Ten percent of all license and permit fees shall be placed in a separate fund to pay for the costs of medical care for stabilization for injured or sick animals under the care of Animal Care and Control. If owners can be located, the owners shall be responsible for reimbursement of the cost of these services when the pet is reclaimed.”

Section 10. Amendment of Section 6.05.180 of the Code. Section 6.05.180 of the Evansville Municipal Code is hereby amended by deleting the stricken words and inserting the words underlined as follows:

“6.05.180 Penalties and fees.

(A) Any person who violates any provision of this chapter shall be subject to a fine, court order to comply, and revocation of licenses or permits issued, such revocation following notice and hearing. Violations of the provisions of this chapter shall be cause for denial of the issuance of a license or permit if in the opinion of the commission such prior acts indicate the applicant’s inability to comply in the future.

(B) The following fines are hereby imposed for violation of the provisions indicated in addition to any other remedy provided by the municipal code or by law:

EMC 6.05.030	\$40.00 for the first violation; \$80.00 for the second violation within any 12-month period; and \$120.00 each for three or more violations within any 12-month period. However, for violation of EMC 6.05.030(B)(5) or (6), if the animal producing the offspring is spayed within 10 weeks from the birth of the litter, the first fine shall be waived if proof that the animal was spayed is provided to ACC within 30 days of the date the offspring are surrendered to ACC. This is a one-time waiver per owner. The fine shall not be charged prior to reclaiming the animal if the owner signs an agreement stating he will have the animal spayed or neutered within 30 days. The fine shall be imposed if the owner fails to have the animal spayed or neutered and provide proof thereof to Animal Care and Control within 30 days.
<u>EMC 6.05.030(B)(5)</u>	<u>\$150.00 for the first violation;</u> <u>\$500.00 for the second violation within any 12-month period; and</u> <u>\$1,000.00 for three or more violations within any 12-month period.</u>
<u>EMC 6.05.030(B)(6)</u>	<u>\$150.00 for the first violation;</u> <u>\$500.00 for the second violation within any 12-month period; and</u> <u>\$1,000.00 for three or more violations within any 12-month period.</u>
EMC 6.05.040(A)(1)	\$40.00 for the first violation; \$80.00 for the second violation within any 12-month period; and \$120.00 each for three or more violations within any 12-month period.
EMC 6.05.040(A)(2)	\$40.00 for the first violation; \$150.00 for the second violation within any 12-month period; and \$500.00 each for three or more violations within any 12-month period.
EMC 6.05.040(A)(3)	\$50.00 for the first violation; \$150.00 for the second violation within any 12-month period; and \$500.00 each for three or more violations within any 12-month period.
EMC 6.05.040(A)(4)	\$80.00 for the first violation; \$150.00 for the second violation within any 12-month period; and

	\$500.00 each for three or more violations within any 12-month period. For the first violation, if the dog or cat has not been spayed or neutered, the fine shall be waived if the owner has the animal spayed or neutered and provides a veterinarian's statement to Animal Control proving that the animal has been spayed or neutered within 30 days from the date of the violation.
EMC 6.05.040(A)(5)	\$100.00 for the first violation; \$250.00 for the second violation within a 12-month period; and \$1,500 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(6)	\$100.00 for the first violation; \$250.00 for the second violation within a 12-month period; and \$1,500 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(7)(a)	\$50.00 for the first violation; \$75.00 for the second violation within a 12-month period; and \$100.00 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(7)(b)	\$50.00 for the first violation; \$75.00 for the second violation within a 12-month period; and \$100.00 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(8)	\$500.00 per violation.
EMC 6.05.040(A)(9)	\$50.00 per violation.
EMC 6.05.040(A)(10)	\$50.00 per violation.
EMC 6.05.040(A)(11)	\$100.00 for the first violation; \$250.00 for the second violation within a 12-month period; and \$1,500 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(12)	\$500.00 per violation. <u>\$1,000.00 for first violation;</u> <u>\$1,500.00 for second violation within any 12-month period; and</u> <u>\$2,500 for three or more violations within any 12-month period.</u>
EMC 6.05.040(A)(13)	\$250.00 for first violation; \$500.00 for the second violation within a 12-month period; and \$1,000 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(14)	\$75.00 for the first violation; \$250.00 for second violation within a 12-month period; and \$500.00 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(15)	\$50.00 per violation.
EMC 6.05.040(A)(19)	\$500.00 for the first violation; \$1,500 for the second violation within a 12-month period; and \$2,500 each for three or more violations within any 12-month period.
EMC 6.05.040(A)(22)	\$40.00 for the first violation;

	\$100.00 for the second violation within a 12-month period; and \$250.00 each for three or more violations within a 12-month period.
EMC 6.05.040(A)(25)	\$40.00 for the first violation; \$80.00 for the second violation within any 12-month period; and \$120.00 each for three or more violations within any 12-month period.
<u>EMC 6.05.040(A)(27)</u>	<u>\$100.00 for the first violation;</u> <u>\$250.00 for the second violation within any 12-month period; and</u> <u>\$1,500.00 for three or more violations within any 12-month period.</u>
EMC 6.05.040(B)	\$40.00 per violation.
EMC 6.05.040(C)	\$40.00 for the first violation; \$100.00 for the second violation within a 12-month period; \$250.00 for third and subsequent violations within a 12-month period.
EMC 6.05.040(E)	<u>\$250.00 for the first violation;</u> <u>\$500.00 for the second violation within any 12-month period; and</u> <u>\$1,000.00 for three or more violations within any 12-month period</u>
EMC 6.05.050	\$40.00 for the first violation; \$80.00 for the second violation within any 12-month period; and \$120.00 each for three or more violations within any 12-month period.
EMC 6.05.060(A) or (B):	\$75.00 for the first violation; \$150.00 for the second violation within a 12-month period; \$500.00 for the third violation within a 12-month period; \$1,000 for each violation after the third violation within a 12-month period.
EMC 6.05.060(C) or (D):	\$75.00 for the first violation; \$150.00 for the second violation of the same in any 12-month period; \$500.00 for the third violation of the same in any 12-month period; \$1,000 for each violation after the third violation of the same within a 12-month period.
EMC 6.05.060(E):	\$500.00 for the first violation; \$1,500 for the second violation within any 12-month period; \$2,500 each for three or more violations within any 12-month period.
EMC 6.05.070	\$40.00 for the first violation; \$150.00 for the second violation within a 12-month period; and \$500.00 each for three or more violations within a 12-month period.
EMC 6.05.080	\$40.00 per violation.
EMC 6.05.090	\$100.00 for the first violation; \$250.00 for the second violation within a 12-month period; and \$500.00 each for three or more violations within a 12-month period.
EMC 6.05.100	\$250.00 per violation.

(C) For any violation of this chapter for which a fine is not provided in subsection (B) of this section, there is hereby imposed a fine of \$100.00 for each offense; each day of violation shall be considered a separate offense. Additionally, a court may order compliance with the provisions of this chapter.

(D) Upon a finding that a person's continued maintenance of an animal poses a substantial threat of serious bodily injury or death to the animal or to a person, the commission may order the custodian to release the animal to the animal shelter for adoption or destruction or to such other person as a court may order.

(E) If a person is found by a court of law to have violated IC 35-46-3-7 or 35-46-3-12(a), such person shall not be issued a license to possess an animal of the same species ~~at the same address of the person convicted~~, for a period of 10 years from the date of conviction of that person.

(F) If a person is found to have violated the provisions of EMC 6.05.060(E) by the commission, after notice and hearing, or by a court of law, no person shall be issued a license hereunder to possess an animal of the same species for a period of three years at the same address of the person found to have violated EMC 6.05.060(E).

(G) If the person found responsible for violation of this chapter is a minor, the parent or parents or the guardian of the minor shall be responsible for the actions of such minor and shall be liable for payment of the fine or fines imposed hereunder.

(H) Use of the incinerator and fees associated therewith are at the discretion of the Board of Public Works and shall not exceed cost of operation.

(I) Adoption fees: \$20.00 plus spay/neuter/rabies vaccine, other vaccinations when applicable, plus license fee.

(J) Rental of traps: \$5.00 plus ~~\$50.00~~ \$70.00 cash deposit, to be adjusted as cost of traps fluctuate.


(K) Microchip fee: \$15.00.

(L)(K) Euthanasia Fee. Established by the Board of Public Works not to exceed cost of operation.

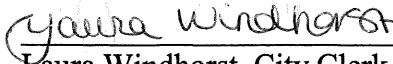
(M)(L) Selling of Exotic Animals. Current market value at discretion of Superintendent."

Section 11. Effective Date. This ordinance shall be in full force and effect from and after its passage by the Common Council.

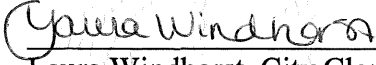
PASSED BY the Common Council of the City of Evansville, Indiana, on the 25 day of APRIL, 2016, and on said day signed by the President of the Common Council and attested by the City Clerk.


Missy Mosby
President of the Common Council

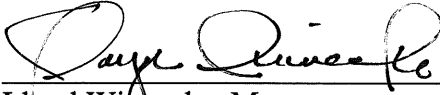
ATTEST:


Laura Windhorst, City Clerk
City of Evansville, Indiana

Presented to me, the undersigned, City Clerk of the City of Evansville, Indiana, and to the Mayor of said City, the 27 day of APRIL, 2016, at 4 o'clock P.m. for his consideration and action thereon.


Laura Windhorst, City Clerk
City of Evansville, Indiana

Having examined the foregoing ordinance, I do now, as Mayor of the City of Evansville, Indiana, approve said ordinance and return the same to the City Clerk this 28th day of April, 2016, at 8:00 o'clock A.m.


Lloyd Winnecke, Mayor
City of Evansville, Indiana